

SENATE AMENDMENTS

2nd Printing

By: McClendon, Alonzo, Gutierrez, Farias,
et al.

H.B. No. 2139

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment, operation, and funding of
3 victim-offender mediation programs.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 56, Code of Criminal Procedure, is
6 amended by adding Subchapter A-1 to read as follows:

7 SUBCHAPTER A-1. PRETRIAL VICTIM-OFFENDER MEDIATION PROGRAM

8 Art. 56.21. AUTHORITY TO ESTABLISH PROGRAM. The
9 commissioners court of a county or governing body of a municipality
10 may establish a pretrial victim-offender mediation program for
11 persons who:

12 (1) have been arrested for or charged with a
13 misdemeanor or state jail felony under Title 7, Penal Code; and

14 (2) have not previously been convicted of a felony or a
15 misdemeanor, other than a misdemeanor regulating traffic and
16 punishable by fine only.

17 Art. 56.22. PROGRAM. (a) A pretrial victim-offender
18 mediation program established under Article 56.21 must require:

19 (1) the identification of defendants who are eligible
20 to participate in the program, including a consideration of whether
21 the defendant meets any additional locally developed eligibility
22 criteria;

23 (2) the consent of the victim and the defendant to be
24 obtained before an eligible defendant may proceed with pretrial

1 victim-offender mediation; and

2 (3) the defendant to enter into a binding mediation
3 agreement in accordance with Article 56.23 that:

4 (A) includes an apology by the defendant; and

5 (B) requires the defendant to:

6 (i) pay restitution to the victim; or

7 (ii) perform community service.

8 (b) All communications made in a pretrial victim-offender
9 mediation program are confidential and may not be introduced into
10 evidence except in a proceeding involving a question concerning the
11 meaning of a mediation agreement.

12 (c) A pretrial victim-offender mediation program may
13 require the staff and other resources of pretrial services
14 departments and community supervision correction departments to
15 assist in monitoring the defendant's compliance with a mediation
16 agreement reached through the program.

17 (d) Pretrial victim-offender mediations may be conducted by
18 any person designated by the court, other than the attorney
19 representing the state or an attorney representing the defendant in
20 the criminal action, regardless of whether the designated person is
21 a trained mediator.

22 (e) If a defendant enters a pretrial victim-offender
23 mediation program, the court, with the consent of the attorney
24 representing the state, may defer the proceedings without accepting
25 a plea of guilty or nolo contendere or entering an adjudication of
26 guilt.

27 (f) The case must be returned to the docket and proceed

1 through the regular criminal justice system if:

2 (1) a pretrial victim-offender mediation does not
3 result in a mediation agreement; or

4 (2) the defendant fails to successfully fulfill the
5 terms of the mediation agreement by the date specified in the
6 mediation agreement.

7 (g) If a case is returned to the docket under Subsection
8 (f), the defendant retains all of the rights that the defendant
9 possessed before entering the pretrial victim-offender mediation
10 program under this subchapter.

11 (h) The court, on the motion of the attorney representing
12 the state, shall dismiss the indictment or information charging the
13 defendant with the commission of the offense, if the defendant:

14 (1) successfully completes the mediation agreement as
15 determined by the attorney representing the state; and

16 (2) either:

17 (A) pays all court costs; or

18 (B) enters a payment plan approved by the court
19 or the attorney representing the state for such payment.

20 (i) A determination by the court regarding whether the
21 mediation agreement has been successfully completed is final and
22 may not be appealed, although the attorney for the state or the
23 court may extend the period for compliance.

24 (j) If the defendant is not arrested or convicted of a
25 subsequent felony or misdemeanor other than a misdemeanor
26 regulating traffic and punishable by fine only on or before the
27 first anniversary of the date the defendant successfully completed

1 a mediation agreement under this subchapter, on the motion of the
2 defendant, the court shall enter an order of nondisclosure under
3 Section 411.081, Government Code, as if the defendant had received
4 a discharge and dismissal under Section 5(c), Article 42.12, with
5 respect to all records and files related to the defendant's arrest
6 for the offense for which the defendant entered the pretrial
7 victim-offender mediation program.

8 Art. 56.23. MEDIATION AGREEMENT. (a) A mediation agreement
9 under this subchapter must be:

- 10 (1) signed by the defendant and the victim; and
11 (2) ratified by the attorney representing the state in
12 a request for a court order documenting and approving the mediation
13 agreement.

14 (b) A mediation agreement may require testing, counseling,
15 and treatment of the defendant to address alcohol abuse, abuse of
16 controlled substances, mental health, or anger management or any
17 other service that is reasonably related to the offense for which
18 the defendant was arrested or charged.

19 (c) A mediation agreement is not valid for more than one
20 year after the date on which the mediation agreement is ratified
21 unless the court and the attorney representing the state approve
22 the extension of the agreement.

23 (d) A mediation agreement under this subchapter does not
24 constitute a plea or legal admission of responsibility.

25 Art. 56.24. OVERSIGHT. (a) The lieutenant governor and the
26 speaker of the house of representatives may assign to appropriate
27 legislative committees duties relating to the oversight of pretrial

1 victim-offender mediation programs established under this
2 subchapter.

3 (b) A legislative committee or the governor may request the
4 state auditor to perform a management, operations, or financial or
5 accounting audit of a pretrial victim-offender mediation program
6 established under this subchapter.

7 (c) A county or municipality that establishes a pretrial
8 victim-offender mediation program:

9 (1) shall notify the attorney general's office when
10 the county or municipality begins implementation of the program;

11 (2) may provide information regarding the performance
12 of the program to the attorney general's office on request; and

13 (3) may apply for funds for the program in accordance
14 with Article 102.0179(g).

15 Art. 56.25. FEES. (a) A pretrial victim-offender
16 mediation program established under this subchapter may collect
17 from a defendant in the program:

18 (1) a reasonable program fee not to exceed \$500; and

19 (2) an alcohol or controlled substance testing,
20 counseling, and treatment fee in an amount necessary to cover the
21 costs of the testing, counseling, or treatment if such testing,
22 counseling, or treatment is required by the mediation agreement.

23 (b) Fees collected under this article may be paid on a
24 periodic basis or on a deferred payment schedule at the discretion
25 of the judge, magistrate, or program director administering the
26 pretrial victim-offender mediation program. The fees must be:

27 (1) based on the defendant's ability to pay; and

1 (2) used only for purposes specific to the program.

2 SECTION 2. Subchapter A, Chapter 102, Code of Criminal
3 Procedure, is amended by adding Article 102.0179 to read as
4 follows:

5 Art. 102.0179. COSTS ATTENDANT TO CERTAIN NONVIOLENT
6 CONVICTIONS INVOLVING PROPERTY. (a) In addition to other costs on
7 conviction imposed by this chapter, a person shall pay \$15 as a
8 court cost on conviction of a felony or misdemeanor under Title 7,
9 Penal Code.

10 (b) For purposes of this article, a person is considered to
11 have been convicted if:

12 (1) a sentence is imposed;

13 (2) the defendant receives community supervision or
14 deferred adjudication; or

15 (3) the court defers final disposition of the case.

16 (c) Court costs under this article are collected in the same
17 manner as other fines or costs. An officer collecting the costs
18 shall keep separate records of the funds collected as costs under
19 this article and shall deposit the funds in the county or municipal
20 treasury, as appropriate.

21 (d) The custodian of a county or municipal treasury shall:

22 (1) keep records of the amount of funds on deposit
23 collected under this article; and

24 (2) except as provided by Subsection (e), send to the
25 comptroller before the last day of the first month following each
26 calendar quarter the funds collected under this article during the
27 preceding quarter.

1 (e) A county or municipality is entitled to:

2 (1) if the county or municipality has established a
3 pretrial victim-offender mediation program, retain 40 percent of
4 the funds collected under this article by an officer of the county
5 or municipality, to be used exclusively for the maintenance of a
6 pretrial victim-offender mediation program operated in the county
7 or municipality; and

8 (2) if the custodian of the county or municipal
9 treasury complies with Subsection (d), retain as a collection fee
10 10 percent of an amount equal to the difference between:

11 (A) the amount of funds collected under this
12 article by an officer of the county or municipality; and

13 (B) any amount the county or municipality is
14 entitled to retain under Subdivision (1).

15 (f) If no funds due as costs under this article are
16 deposited in a county or municipal treasury in a calendar quarter,
17 the custodian of the treasury shall file the report required for the
18 quarter in the regular manner and must state that no funds were
19 collected.

20 (g) The comptroller shall deposit the funds received under
21 this article to the credit of the pretrial victim-offender
22 mediation program account in the general revenue fund to help fund
23 pretrial victim-offender mediation programs established under
24 Subchapter A-1, Chapter 56. The legislature shall appropriate
25 money from the account solely to the attorney general's office for
26 distribution to pretrial victim-offender mediation programs that
27 apply for the money.

1 (h) Funds collected under this article are subject to audit
2 by the comptroller.

3 SECTION 3. Subchapter B, Chapter 102, Government Code, is
4 amended by adding Section 102.0216 to read as follows:

5 Sec. 102.0216. ADDITIONAL COURT COSTS ON CONVICTION: CODE
6 OF CRIMINAL PROCEDURE. A person convicted of an offense under Title
7 7, Penal Code, shall pay a cost on conviction, in addition to all
8 other costs, to help fund pretrial victim-offender mediation
9 programs established under Subchapter A-1, Chapter 56, Code of
10 Criminal Procedure (Art. 102.0179, Code of Criminal
11 Procedure) . . . \$15.

12 SECTION 4. Subchapter B, Chapter 103, Government Code, is
13 amended by adding Section 103.0217 to read as follows:

14 Sec. 103.0217. ADDITIONAL FEES IN CRIMINAL CASES: CODE OF
15 CRIMINAL PROCEDURE. A defendant who participates in a pretrial
16 victim-offender mediation program under Subchapter A-1, Chapter
17 56, Code of Criminal Procedure, may be required to pay a program fee
18 in an amount not to exceed \$500 and the costs of certain testing,
19 counseling, and treatment.

20 SECTION 5. Title 3, Family Code, is amended by adding
21 Chapter 62 to read as follows:

22 CHAPTER 62. JUVENILE VICTIM-OFFENDER MEDIATION PILOT PROGRAM

23 Sec. 62.001. DEFINITIONS. In this chapter:

24 (1) "Commission" means the Texas Juvenile Probation
25 Commission.

26 (2) "Department" means the Bexar County Juvenile
27 Probation Department.

1 (3) "Program" means the juvenile victim-offender
2 mediation pilot program created under this chapter.

3 Sec. 62.002. ESTABLISHMENT AND IMPLEMENTATION OF PILOT
4 PROGRAM. (a) The commission shall establish a juvenile
5 victim-offender mediation pilot program for children in Bexar
6 County using funds appropriated for that purpose.

7 (b) In implementing the program, the commission shall
8 require the department to:

9 (1) establish a resource network on the subject of
10 victim-offender mediation that includes representatives from the
11 department, the local dispute resolution center, the juvenile
12 courts, the district attorney's office, and the local juvenile
13 defense bar association;

14 (2) develop the program consistent with best practices
15 identified by the commission; and

16 (3) identify outcome measures that may be used to
17 measure the effectiveness of the program.

18 Sec. 62.003. REPORT. Not later than December 1, 2010, the
19 department shall submit a report to the commission regarding the
20 program. The report must include:

21 (1) a comprehensive analysis of the effectiveness of
22 the program; and

23 (2) the department's findings and recommendations
24 regarding continuation or expansion of the program.

25 Sec. 62.004. PROGRAM FUNDING. Subject to Section 62.005,
26 the commission shall provide sufficient funds to the department for
27 the program and report, if funds are appropriated for purposes of

1 this chapter.

2 Sec. 62.005. IMPLEMENTATION CONTINGENT ON FEDERAL FUNDING.

3 The commission is required to implement this chapter only if the
4 commission receives, for the purpose of implementing this chapter,
5 federal supplemental appropriations under the American Recovery
6 and Reinvestment Act of 2009 (Pub. L. No. 111-5) or any other
7 similar federal legislation that is enacted on or after January 1,
8 2009.

9 Sec. 62.006. EXPIRATION. This chapter expires September 2,
10 2011.

11 SECTION 6. (a) The change in law made by this Act in adding
12 Subchapter A-1, Chapter 56, Code of Criminal Procedure, applies to
13 a defendant who enters a pretrial victim-offender mediation program
14 under that subchapter regardless of whether the defendant committed
15 the offense for which the defendant enters the program before, on,
16 or after the effective date of this Act.

17 (b) The change in law made by this Act in adding Article
18 102.0179, Code of Criminal Procedure, and Section 102.0216,
19 Government Code, applies only to an offense committed on or after
20 the effective date of this Act. An offense committed before the
21 effective date of this Act is governed by the law in effect when the
22 offense was committed, and the former law is continued in effect for
23 that purpose. For purposes of this subsection, an offense was
24 committed before the effective date of this Act if any element of
25 the offense was committed before that date.

26 SECTION 7. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 2139

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Atty Gen
Secretary of the Senate

By:

J. J. Arizaga

H.B. No. 2139

Substitute the following for H.B. No. 2139 :

By:

Sen Patrick

C.S.H.B. No. 2139

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the establishment, operation, and funding of
3 victim-offender mediation programs.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 56, Code of Criminal Procedure, is
6 amended by adding Subchapter A-1 to read as follows:

7 SUBCHAPTER A-1. PRETRIAL VICTIM-OFFENDER MEDIATION PROGRAM

8 Art. 56.21. AUTHORITY TO ESTABLISH PROGRAM. The
9 commissioners court of a county or governing body of a municipality
10 may establish a pretrial victim-offender mediation program for
11 persons who:

12 (1) have been arrested for or charged with a
13 misdemeanor or state jail felony under Title 7, Penal Code; and

14 (2) have not previously been convicted of a felony or a
15 misdemeanor, other than a misdemeanor regulating traffic and
16 punishable by fine only.

17 Art. 56.22. PROGRAM. (a) A pretrial victim-offender
18 mediation program established under Article 56.21 must require:

19 (1) the identification of defendants who are eligible
20 to participate in the program, including a consideration of whether
21 the defendant meets any additional locally developed eligibility
22 criteria;

23 (2) the consent of the victim, the defendant, and the
24 attorney representing the state to be obtained before an eligible

1 defendant may proceed with pretrial victim-offender mediation; and

2 (3) the defendant to enter into a binding mediation
3 agreement in accordance with Article 56.23 that:

4 (A) includes an apology by the defendant; and

5 (B) requires the defendant to:

6 (i) pay restitution to the victim; or

7 (ii) perform community service.

8 (b) All communications made in a pretrial victim-offender
9 mediation program are confidential and may not be introduced into
10 evidence except in a proceeding involving a question concerning the
11 meaning of a mediation agreement.

12 (c) A pretrial victim-offender mediation program may
13 require the staff and other resources of pretrial services
14 departments and community supervision correction departments to
15 assist in monitoring the defendant's compliance with a mediation
16 agreement reached through the program.

17 (d) Pretrial victim-offender mediations may be conducted by
18 any person designated by the court, other than the attorney
19 representing the state or an attorney representing the defendant in
20 the criminal action, regardless of whether the designated person is
21 a trained mediator.

22 (e) If a defendant enters a pretrial victim-offender
23 mediation program, the court may defer the proceedings without
24 accepting a plea of guilty or nolo contendere or entering an
25 adjudication of guilt. The court may not require the defendant to
26 admit guilt or enter a plea of guilty or nolo contendere to enter
27 the program.

1 (f) The case must be returned to the docket and proceed
2 through the regular criminal justice system if:

3 (1) a pretrial victim-offender mediation does not
4 result in a mediation agreement; or

5 (2) the defendant fails to successfully fulfill the
6 terms of the mediation agreement by the date specified in the
7 mediation agreement.

8 (g) If a case is returned to the docket under Subsection
9 (f), the defendant retains all of the rights that the defendant
10 possessed before entering the pretrial victim-offender mediation
11 program under this subchapter. Notwithstanding any other law, for
12 purposes of determining the duration and expiration of an
13 applicable statute of limitation under Chapter 12, the running of
14 the period of limitation is tolled while the defendant is enrolled
15 in a program under this subchapter.

16 (h) The court, on the motion of the attorney representing
17 the state, shall dismiss the indictment or information charging the
18 defendant with the commission of the offense, if the defendant:

19 (1) successfully completes the mediation agreement as
20 determined by the attorney representing the state; and

21 (2) either:

22 (A) pays all court costs; or

23 (B) enters a payment plan approved by the court
24 or the attorney representing the state for such payment.

25 (i) A determination by the court regarding whether the
26 mediation agreement has been successfully completed is final and
27 may not be appealed, although the attorney for the state or the

1 court may extend the period for compliance.

2 (j) If the defendant is not arrested or convicted of a
3 subsequent felony or misdemeanor other than a misdemeanor
4 regulating traffic and punishable by fine only on or before the
5 first anniversary of the date the defendant successfully completed
6 a mediation agreement under this subchapter, on the motion of the
7 defendant, the court shall enter an order of nondisclosure under
8 Section 411.081, Government Code, as if the defendant had received
9 a discharge and dismissal under Section 5(c), Article 42.12, with
10 respect to all records and files related to the defendant's arrest
11 for the offense for which the defendant entered the pretrial
12 victim-offender mediation program.

13 Art. 56.23. MEDIATION AGREEMENT. (a) A mediation agreement
14 under this subchapter must be:

15 (1) signed by the defendant and the victim; and

16 (2) ratified by the attorney representing the state in
17 a request for a court order documenting and approving the mediation
18 agreement.

19 (b) A mediation agreement may require testing, counseling,
20 and treatment of the defendant to address alcohol abuse, abuse of
21 controlled substances, mental health, or anger management or any
22 other service that is reasonably related to the offense for which
23 the defendant was arrested or charged.

24 (c) A mediation agreement is not valid for more than one
25 year after the date on which the mediation agreement is ratified
26 unless the court and the attorney representing the state approve
27 the extension of the agreement.

1 (d) A mediation agreement under this subchapter does not
2 constitute a plea or legal admission of responsibility.

3 Art. 56.24. OVERSIGHT. (a) The lieutenant governor and the
4 speaker of the house of representatives may assign to appropriate
5 legislative committees duties relating to the oversight of pretrial
6 victim-offender mediation programs established under this
7 subchapter.

8 (b) A legislative committee or the governor may request the
9 state auditor to perform a management, operations, or financial or
10 accounting audit of a pretrial victim-offender mediation program
11 established under this subchapter.

12 (c) A county or municipality that establishes a pretrial
13 victim-offender mediation program:

14 (1) shall notify the attorney general's office when
15 the county or municipality begins implementation of the program;

16 (2) may provide information regarding the performance
17 of the program to the attorney general's office on request; and

18 (3) may apply for funds for the program in accordance
19 with Article 102.0179(g).

20 Art. 56.25. FEES. (a) A pretrial victim-offender
21 mediation program established under this subchapter may collect
22 from a defendant in the program:

23 (1) a reasonable program fee not to exceed \$500; and

24 (2) an alcohol or controlled substance testing,
25 counseling, and treatment fee in an amount necessary to cover the
26 costs of the testing, counseling, or treatment if such testing,
27 counseling, or treatment is required by the mediation agreement.

1 (b) Fees collected under this article may be paid on a
2 periodic basis or on a deferred payment schedule at the discretion
3 of the judge, magistrate, or program director administering the
4 pretrial victim-offender mediation program. The fees must be:

5 (1) based on the defendant's ability to pay; and

6 (2) used only for purposes specific to the program.

7 SECTION 2. Subchapter A, Chapter 102, Code of Criminal
8 Procedure, is amended by adding Article 102.0179 to read as
9 follows:

10 Art. 102.0179. COSTS ATTENDANT TO CERTAIN NONVIOLENT
11 CONVICTIONS INVOLVING PROPERTY. (a) In addition to other costs on
12 conviction imposed by this chapter, a person shall pay \$15 as a
13 court cost on conviction of a felony or misdemeanor under Title 7,
14 Penal Code.

15 (b) For purposes of this article, a person is considered to
16 have been convicted if:

17 (1) a sentence is imposed;

18 (2) the defendant receives community supervision or
19 deferred adjudication; or

20 (3) the court defers final disposition of the case.

21 (c) Court costs under this article are collected in the same
22 manner as other fines or costs. An officer collecting the costs
23 shall keep separate records of the funds collected as costs under
24 this article and shall deposit the funds in the county or municipal
25 treasury, as appropriate.

26 (d) The custodian of a county or municipal treasury shall:

27 (1) keep records of the amount of funds on deposit

1 collected under this article; and

2 (2) except as provided by Subsection (e), send to the
3 comptroller before the last day of the first month following each
4 calendar quarter the funds collected under this article during the
5 preceding quarter.

6 (e) A county or municipality is entitled to:

7 (1) if the county or municipality has established a
8 pretrial victim-offender mediation program, retain 40 percent of
9 the funds collected under this article by an officer of the county
10 or municipality, to be used exclusively for the maintenance of a
11 pretrial victim-offender mediation program operated in the county
12 or municipality; and

13 (2) if the custodian of the county or municipal
14 treasury complies with Subsection (d), retain as a collection fee
15 10 percent of an amount equal to the difference between:

16 (A) the amount of funds collected under this
17 article by an officer of the county or municipality; and

18 (B) any amount the county or municipality is
19 entitled to retain under Subdivision (1).

20 (f) If no funds due as costs under this article are
21 deposited in a county or municipal treasury in a calendar quarter,
22 the custodian of the treasury shall file the report required for the
23 quarter in the regular manner and must state that no funds were
24 collected.

25 (g) The comptroller shall deposit the funds received under
26 this article to the credit of the pretrial victim-offender
27 mediation program account in the general revenue fund to help fund

1 pretrial victim-offender mediation programs established under
2 Subchapter A-1, Chapter 56. The legislature shall appropriate
3 money from the account solely to the attorney general's office for
4 distribution to pretrial victim-offender mediation programs that
5 apply for the money.

6 (h) Funds collected under this article are subject to audit
7 by the comptroller.

8 SECTION 3. Subchapter B, Chapter 102, Government Code, is
9 amended by adding Section 102.0216 to read as follows:

10 Sec. 102.0216. ADDITIONAL COURT COSTS ON CONVICTION: CODE
11 OF CRIMINAL PROCEDURE. A person convicted of an offense under Title
12 7, Penal Code, shall pay a cost on conviction, in addition to all
13 other costs, to help fund pretrial victim-offender mediation
14 programs established under Subchapter A-1, Chapter 56, Code of
15 Criminal Procedure (Art. 102.0179, Code of Criminal
16 Procedure) . . . \$15.

17 SECTION 4. Subchapter B, Chapter 103, Government Code, is
18 amended by adding Section 103.0217 to read as follows:

19 Sec. 103.0217. ADDITIONAL FEES IN CRIMINAL CASES: CODE OF
20 CRIMINAL PROCEDURE. A defendant who participates in a pretrial
21 victim-offender mediation program under Subchapter A-1, Chapter
22 56, Code of Criminal Procedure, may be required to pay a program fee
23 in an amount not to exceed \$500 and the costs of certain testing,
24 counseling, and treatment.

25 SECTION 5. Title 3, Family Code, is amended by adding
26 Chapter 62 to read as follows:

27 CHAPTER 62. JUVENILE VICTIM-OFFENDER MEDIATION PILOT PROGRAM

1 Sec. 62.001. DEFINITIONS. In this chapter:

2 (1) "Commission" means the Texas Juvenile Probation
3 Commission.

4 (2) "Department" means the Bexar County Juvenile
5 Probation Department.

6 (3) "Program" means the juvenile victim-offender
7 mediation pilot program created under this chapter.

8 Sec. 62.002. ESTABLISHMENT AND IMPLEMENTATION OF PILOT
9 PROGRAM. (a) The commission shall establish a juvenile
10 victim-offender mediation pilot program for children in Bexar
11 County using funds appropriated for that purpose.

12 (b) In implementing the program, the commission shall
13 require the department to:

14 (1) establish a resource network on the subject of
15 victim-offender mediation that includes representatives from the
16 department, the local dispute resolution center, the juvenile
17 courts, the district attorney's office, and the local juvenile
18 defense bar association;

19 (2) develop the program consistent with best practices
20 identified by the commission; and

21 (3) identify outcome measures that may be used to
22 measure the effectiveness of the program.

23 Sec. 62.003. REPORT. Not later than December 1, 2010, the
24 department shall submit a report to the commission regarding the
25 program. The report must include:

26 (1) a comprehensive analysis of the effectiveness of
27 the program; and

1 (2) the department's findings and recommendations
2 regarding continuation or expansion of the program.

3 Sec. 62.004. PROGRAM FUNDING. Subject to Section 62.005,
4 the commission shall provide sufficient funds to the department for
5 the program and report, if funds are appropriated for purposes of
6 this chapter.

7 Sec. 62.005. IMPLEMENTATION CONTINGENT ON FEDERAL FUNDING.
8 The commission is required to implement this chapter only if the
9 commission receives, for the purpose of implementing this chapter,
10 federal supplemental appropriations under the American Recovery
11 and Reinvestment Act of 2009 (Pub. L. No. 111-5) or any other
12 similar federal legislation that is enacted on or after January 1,
13 2009.

14 Sec. 62.006. EXPIRATION. This chapter expires September 2,
15 2011.

16 SECTION 6. (a) The change in law made by this Act in adding
17 Subchapter A-1, Chapter 56, Code of Criminal Procedure, applies to
18 a defendant who enters a pretrial victim-offender mediation program
19 under that subchapter regardless of whether the defendant committed
20 the offense for which the defendant enters the program before, on,
21 or after the effective date of this Act.

22 (b) The change in law made by this Act in adding Article
23 102.0179, Code of Criminal Procedure, and Section 102.0216,
24 Government Code, applies only to an offense committed on or after
25 the effective date of this Act. An offense committed before the
26 effective date of this Act is governed by the law in effect when the
27 offense was committed, and the former law is continued in effect for

1 that purpose. For purposes of this subsection, an offense was
2 committed before the effective date of this Act if any element of
3 the offense was committed before that date.

4 SECTION 7. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of victim-offender mediation programs.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2139, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>General Revenue fund-GR Account, Pretrial Victim- Offender Mediation Program</i>	Probable Savings/(Cost) from <i>General Revenue fund-GR Account, Pretrial Victim- Offender Mediation Program</i>	Probable Savings/(Cost) from <i>Local Units of Government</i>
2010	\$189,000	(\$189,000)	\$162,000
2011	\$455,000	(\$455,000)	\$388,000
2012	\$455,000	(\$455,000)	\$388,000
2013	\$455,000	(\$455,000)	\$388,000
2014	\$455,000	(\$455,000)	\$388,000

Fiscal Analysis

The bill would add Subchapter A-1 to Chapter 56 of the Code of Criminal Procedure (CCP) to authorize a county or a municipality to establish a pretrial victim-offender mediation program for cases involving a first-time offender arrested and charged under Title 7 of the Penal Code (Offenses Against Property). Operational procedures that must be followed are provided in the bill, including requirements of the attorney representing the state and staff and other resources of pretrial services departments and community supervision and corrections departments.

The lieutenant governor and the speaker of the house of representatives would be authorized to assign oversight duties of the programs to appropriate legislative committees. A legislative committee or the governor would be authorized to request that the state auditor perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under the subchapter. A county or municipality that establishes a program would be required to notify the Office

of the Attorney General when the program is implemented and would be authorized to apply for funds for the program in accordance with other provisions in the bill.

A pretrial victim-offender mediation program established under the added subchapter may collect from the defendant a reasonable program fee not to exceed \$500 and an alcohol or controlled substance testing, counseling, and treatment fee in an amount necessary to cover the costs. Fees must be based on the defendant's ability to pay and be used only for purposes specific to the program.

The bill would amend Subchapter A of Chapter 102, Code of Criminal Procedure, to require in addition to other costs on conviction imposed by the chapter, a \$15 court cost on conviction of a felony or misdemeanor under Title 7, Penal Code. If the county or municipality operates a pretrial victim offender mediation program, that entity would be authorized to retain 40 percent of the funds collected to be used exclusively for the maintenance of the pretrial victim-offender mediation program operated within the county or municipality. If a county or municipality complies with certain requirements, the county or municipality may retain as a collection fee 10 percent of an amount equal to the difference between the amount of funds collected and any amount to which the county or municipality would otherwise be entitled. The comptroller would be required to deposit the funds received from the county or municipality to the credit of the pretrial victim-offender mediation program account in the General Revenue Fund to help fund pretrial victim-offender mediation programs established under Subchapter A-1, Chapter 56, CCP. The legislature would be required to appropriate money from the account solely to the OAG for distribution to pretrial victim-offender mediation programs that apply for the money. Funds collected would be subject to audit by the comptroller.

Subchapter B, Chapter 102, and Subchapter B, Chapter 103 of the Government Code would be amended to add language to conform to provisions of Subchapter A-1, CCP.

The bill would amend Family Code, Title 3 to require the Juvenile Probation Commission (JPC) to establish a juvenile victim-offender mediation pilot program in the Bexar County Juvenile Probation Department. This section of the bill would only be required if JPC receives federal supplemental appropriations under the American Recovery and Reinvestment Act of 2009 or similar federal legislation. JPC would require the department to develop resources and programming consistent with best practices, and to identify outcome measures that may be used to measure the programs' effectiveness. The department would be required to report to JPC by December 1, 2010 on the effectiveness of the program, including recommendations regarding expansion of the program. Changes in the law would apply only to an offense committed on or after the effective date of the bill.

The bill would take effect September 1, 2009 unless it receives the votes necessary for immediate enactment.

The proposed legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

It is anticipated that administrative costs resulting from requirements placed on the Comptroller of Public Accounts, Office of the Attorney General, and Office of the State Auditor could be absorbed using existing resources. All other fiscal impact is reflected in the tables above.

Methodology

The Comptroller of Public Accounts used historical data from the *Annual Statistical Report for the Texas Judiciary* (for multiple years), adjusted for growth, indigence, implementation, and retention by local governments to estimate the fiscal impact from the new \$15 court cost. The court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect historical non-collection rates, and adjusted for an implementation lag. Estimates were based on felony and some misdemeanor convictions for which data were available. In general, misdemeanor property offense data were not sufficiently detailed to be included in the analysis.

It is unknown what amount the legislature might appropriate from the revenue deposited to the Pretrial Victim-Offender Mediation Program account to be distributed to the local programs. Neither is it known how many programs would be established, nor how much money may be requested from the local governments to help fund the local programs. However, for the purpose of this analysis, it is assumed that an amount equal to revenue gained would be appropriated and expended.

Local Government Impact

The table above reflects estimated revenue gain to local governments in the aggregate related to collecting the \$15 court cost if each eligible local entity were to establish a pretrial victim-offender mediation program. Impact would vary by county or municipality depending on the number of cases for which the \$15 fee would be imposed and whether the local government establishes a pretrial victim-offender mediation program, which would then entitle the entity to retain 40 percent of the fee and a collection fee, as opposed to retaining only a collection fee.

It is assumed that a county or municipality would establish a pretrial victim-offender mediation program only if, notwithstanding the \$500 program fee that could be charged to a defendant, the county or municipality has a sufficient budget and would collect sufficient applicable court fees to absorb the associated costs.

The bill would require the Juvenile Probation Commission to establish and implement a juvenile victim-offender mediation pilot program in Bexar County. The bill would require the Bexar County Juvenile Probation Department to establish a resource network comprised of certain local officials defined by the bill, develop the program with the Commission's best practices, identify outcome measures on the effectiveness of the program, and submit a report to the Commission. There would be no costs incurred by Bexar County related to the implementation of the pilot program.

Source Agencies:

LBB Staff: JOB, SD, ESi, GG, AI, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of victim-offender mediation programs.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2139, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>General Revenue fund-GR Account, Pretrial Victim- Offender Mediation Program</i>	Probable Savings/(Cost) from <i>General Revenue fund-GR Account, Pretrial Victim- Offender Mediation Program</i>	Probable Savings/(Cost) from <i>Local Units of Government</i>
2010	\$189,000	(\$189,000)	\$162,000
2011	\$455,000	(\$455,000)	\$388,000
2012	\$455,000	(\$455,000)	\$388,000
2013	\$455,000	(\$455,000)	\$388,000
2014	\$455,000	(\$455,000)	\$388,000

Fiscal Analysis

The bill would add Subchapter A-1 to Chapter 56 of the Code of Criminal Procedure (CCP) to authorize a county or a municipality to establish a pretrial victim-offender mediation program for cases involving a first-time offender arrested and charged under Title 7 of the Penal Code (Offenses Against Property). Operational procedures that must be followed are provided in the bill, including requirements of the attorney representing the state and staff and other resources of pretrial services departments and community supervision and corrections departments.

The lieutenant governor and the speaker of the house of representatives would be authorized to assign oversight duties of the programs to appropriate legislative committees. A legislative committee or the governor would be authorized to request that the state auditor perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under the subchapter. A county or municipality that establishes a program would be required to notify the Office

of the Attorney General when the program is implemented and would be authorized to apply for funds for the program in accordance with other provisions in the bill.

A pretrial victim-offender mediation program established under the added subchapter may collect from the defendant a reasonable program fee not to exceed \$500 and an alcohol or controlled substance testing, counseling, and treatment fee in an amount necessary to cover the costs. Fees must be based on the defendant's ability to pay and be used only for purposes specific to the program.

The bill would amend Subchapter A of Chapter 102, Code of Criminal Procedure, to require in addition to other costs on conviction imposed by the chapter, a \$15 court cost on conviction of a felony or misdemeanor under Title 7, Penal Code. If the county or municipality operates a pretrial victim offender mediation program, that entity would be authorized to retain 40 percent of the funds collected to be used exclusively for the maintenance of the pretrial victim-offender mediation program operated within the county or municipality. If a county or municipality complies with certain requirements, the county or municipality may retain as a collection fee 10 percent of an amount equal to the difference between the amount of funds collected and any amount to which the county or municipality would otherwise be entitled. The comptroller would be required to deposit the funds received from the county or municipality to the credit of the pretrial victim-offender mediation program account in the General Revenue Fund to help fund pretrial victim-offender mediation programs established under Subchapter A-1, Chapter 56, CCP. The legislature would be required to appropriate money from the account solely to the OAG for distribution to pretrial victim-offender mediation programs that apply for the money. Funds collected would be subject to audit by the comptroller.

Subchapter B, Chapter 102, and Subchapter B, Chapter 103 of the Government Code would be amended to add language to conform to provisions of Subchapter A-1, CCP.

The bill would amend Family Code, Title 3 to require the Juvenile Probation Commission (JPC) to establish a juvenile victim-offender mediation pilot program in the Bexar County Juvenile Probation Department. This section of the bill would only be required if JPC receives federal supplemental appropriations under the American Recovery and Reinvestment Act of 2009 or similar federal legislation. JPC would require the department to develop resources and programming consistent with best practices, and to identify outcome measures that may be used to measure the programs' effectiveness. The department would be required to report to JPC by December 1, 2010 on the effectiveness of the program, including recommendations regarding expansion of the program. Changes in the law would apply only to an offense committed on or after the effective date of the bill.

The bill would take effect September 1, 2009 unless it receives the votes necessary for immediate enactment.

The proposed legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

It is anticipated that administrative costs resulting from requirements placed on the Comptroller of Public Accounts, Office of the Attorney General, and Office of the State Auditor could be absorbed using existing resources. All other fiscal impact is reflected in the tables above.

Methodology

The Comptroller of Public Accounts used historical data from the *Annual Statistical Report for the Texas Judiciary* (for multiple years), adjusted for growth, indigence, implementation, and retention by local governments to estimate the fiscal impact from the new \$15 court cost. The court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect historical non-collection rates, and adjusted for an implementation lag. Estimates were based on felony and some misdemeanor convictions for which data were available. In general, misdemeanor property offense data were not sufficiently detailed to be included in the analysis.

It is unknown what amount the legislature might appropriate from the revenue deposited to the Pretrial Victim-Offender Mediation Program account to be distributed to the local programs. Neither is it known how many programs would be established, nor how much money may be requested from the local governments to help fund the local programs. However, for the purpose of this analysis, it is assumed that an amount equal to revenue gained would be appropriated and expended.

Local Government Impact

The table above reflects estimated revenue gain to local governments in the aggregate related to collecting the \$15 court cost if each eligible local entity were to establish a pretrial victim-offender mediation program. Impact would vary by county or municipality depending on the number of cases for which the \$15 fee would be imposed and whether the local government establishes a pretrial victim-offender mediation program, which would then entitle the entity to retain 40 percent of the fee and a collection fee, as opposed to retaining only a collection fee.

It is assumed that a county or municipality would establish a pretrial victim-offender mediation program only if, notwithstanding the \$500 program fee that could be charged to a defendant, the county or municipality has a sufficient budget and would collect sufficient applicable court fees to absorb the associated costs.

The bill would require the Juvenile Probation Commission to establish and implement a juvenile victim-offender mediation pilot program in Bexar County. The bill would require the Bexar County Juvenile Probation Department to establish a resource network comprised of certain local officials defined by the bill, develop the program with the Commission's best practices, identify outcome measures on the effectiveness of the program, and submit a report to the Commission. There would be no costs incurred by Bexar County related to the implementation of the pilot program.

Source Agencies:

LBB Staff: JOB, ESi, GG, AI, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of victim-offender mediation programs.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2139, As Engrossed: an impact of \$0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>General Revenue fund-GR Account, Pretrial Victim- Offender Mediation Program</i>	Probable Savings/(Cost) from <i>General Revenue fund-GR Account, Pretrial Victim- Offender Mediation Program</i>	Probable Savings/(Cost) from <i>Local Units of Government</i>
2010	\$189,000	(\$189,000)	\$162,000
2011	\$455,000	(\$455,000)	\$388,000
2012	\$455,000	(\$455,000)	\$388,000
2013	\$455,000	(\$455,000)	\$388,000
2014	\$455,000	(\$455,000)	\$388,000

Fiscal Analysis

The bill would add Subchapter A-1 to Chapter 56 of the Code of Criminal Procedure (CCP) to authorize a county or a municipality to establish a pretrial victim-offender mediation program for cases involving a first-time offender arrested and charged under Title 7 of the Penal Code (Offenses Against Property). Operational procedures that must be followed are provided in the bill, including requirements of the attorney representing the state and staff and other resources of pretrial services departments and community supervision and corrections departments.

The lieutenant governor and the speaker of the house of representatives would be authorized to assign oversight duties of the programs to appropriate legislative committees. A legislative committee or the governor would be authorized to request that the state auditor perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under the subchapter. A county or municipality that establishes a program would be required to notify the Office

of the Attorney General when the program is implemented and would be authorized to apply for funds for the program in accordance with other provisions in the bill.

A pretrial victim-offender mediation program established under the added subchapter may collect from the defendant a reasonable program fee not to exceed \$500 and an alcohol or controlled substance testing, counseling, and treatment fee in an amount necessary to cover the costs. Fees must be based on the defendant's ability to pay and be used only for purposes specific to the program.

The bill would amend Subchapter A of Chapter 102, Code of Criminal Procedure, to require in addition to other costs on conviction imposed by the chapter, a \$15 court cost on conviction of a felony or misdemeanor under Title 7, Penal Code. If the county or municipality operates a pretrial victim offender mediation program, that entity would be authorized to retain 40 percent of the funds collected to be used exclusively for the maintenance of the pretrial victim-offender mediation program operated within the county or municipality. If a county or municipality complies with certain requirements, the county or municipality may retain as a collection fee 10 percent of an amount equal to the difference between the amount of funds collected and any amount to which the county or municipality would otherwise be entitled. The comptroller would be required to deposit the funds received from the county or municipality to the credit of the pretrial victim-offender mediation program account in the General Revenue Fund to help fund pretrial victim-offender mediation programs established under Subchapter A-1, Chapter 56, CCP. The legislature would be required to appropriate money from the account solely to the OAG for distribution to pretrial victim-offender mediation programs that apply for the money. Funds collected would be subject to audit by the comptroller.

Subchapter B, Chapter 102, and Subchapter B, Chapter 103 of the Government Code would be amended to add language to conform to provisions of Subchapter A-1, CCP.

The bill would amend Family Code, Title 3 to require the Juvenile Probation Commission (JPC) to establish a juvenile victim-offender mediation pilot program in the Bexar County Juvenile Probation Department. This section of the bill would only be required if JPC receives federal supplemental appropriations under the American Recovery and Reinvestment Act of 2009 or similar federal legislation. JPC would require the department to develop resources and programming consistent with best practices, and to identify outcome measures that may be used to measure the programs' effectiveness. The department would be required to report to JPC by December 1, 2010 on the effectiveness of the program, including recommendations regarding expansion of the program. Changes in the law would apply only to an offense committed on or after the effective date of the bill.

The bill would take effect September 1, 2009 unless it receives the votes necessary for immediate enactment.

The proposed legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

It is anticipated that administrative costs resulting from requirements placed on the Comptroller of Public Accounts, Office of the Attorney General, and Office of the State Auditor could be absorbed using existing resources. All other fiscal impact is reflected in the tables above.

Methodology

The Comptroller of Public Accounts used historical data from the *Annual Statistical Report for the Texas Judiciary* (for multiple years), adjusted for growth, indigence, implementation, and retention by local governments to estimate the fiscal impact from the new \$15 court cost. The court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect historical non-collection rates, and adjusted for an implementation lag. Estimates were based on felony and some misdemeanor convictions for which data were available. In general, misdemeanor property offense data were not sufficiently detailed to be included in the analysis.

It is unknown what amount the legislature might appropriate from the revenue deposited to the Pretrial Victim-Offender Mediation Program account to be distributed to the local programs. Neither is it known how many programs would be established, nor how much money may be requested from the local governments to help fund the local programs. However, for the purpose of this analysis, it is assumed that an amount equal to revenue gained would be appropriated and expended.

Local Government Impact

The table above reflects estimated revenue gain to local governments in the aggregate related to collecting the \$15 court cost if each eligible local entity were to establish a pretrial victim-offender mediation program. Impact would vary by county or municipality depending on the number of cases for which the \$15 fee would be imposed and whether the local government establishes a pretrial victim-offender mediation program, which would then entitle the entity to retain 40 percent of the fee and a collection fee, as opposed to retaining only a collection fee.

It is assumed that a county or municipality would establish a pretrial victim-offender mediation program only if, notwithstanding the \$500 program fee that could be charged to a defendant, the county or municipality has a sufficient budget and would collect sufficient applicable court fees to absorb the associated costs.

The bill would require the Juvenile Probation Commission to establish and implement a juvenile victim-offender mediation pilot program in Bexar County. The bill would require the Bexar County Juvenile Probation Department to establish a resource network comprised of certain local officials defined by the bill, develop the program with the Commission's best practices, identify outcome measures on the effectiveness of the program, and submit a report to the Commission. There would be no costs incurred by Bexar County related to the implementation of the pilot program.

Source Agencies:

LBB Staff: JOB, ESi, GG, AI, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 13, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of pretrial victim-offender mediation programs.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2139, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund - GR Account, Pretrial Victim- Offender Mediation Program</i> 1	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund - GR Account, Pretrial Victim- Offender Mediation</i> 1	Probable Savings/(Cost) from <i>Local Units of Government</i>
2010	\$189,000	(\$189,000)	\$162,000
2011	\$455,000	(\$455,000)	\$388,000
2012	\$455,000	(\$455,000)	\$388,000
2013	\$455,000	(\$455,000)	\$388,000
2014	\$455,000	(\$455,000)	\$388,000

Fiscal Analysis

The bill would add Subchapter A-1 to Chapter 56 of the Code of Criminal Procedure (CCP) to authorize a county or a municipality to establish a pretrial victim-offender mediation program for cases involving a first-time offender arrested and charged under Title 7 of the Penal Code (Offenses Against Property). Operational procedures that must be followed are provided in the bill, including requirements of the attorney representing the state and staff and other resources of pretrial services departments and community supervision and corrections departments.

The lieutenant governor and the speaker of the house of representatives would be authorized to assign oversight duties of the programs to appropriate legislative committees. A legislative committee or the

governor would be authorized to request that the state auditor perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under the subchapter. A county or municipality that establishes a program would be required to notify the Office of the Attorney General when the program is implemented and would be authorized to apply for funds for the program in accordance with other provisions in the bill.

A pretrial victim-offender mediation program established under the added subchapter may collect from the defendant a reasonable program fee not to exceed \$500 and an alcohol or controlled substance testing, counseling, and treatment fee in an amount necessary to cover the costs. Fees must be based on the defendant's ability to pay and be used only for purposes specific to the program.

The bill would amend Subchapter A of Chapter 102, Code of Criminal Procedure, to require in addition to other costs on conviction imposed by the chapter, a \$15 court cost on conviction of a felony or misdemeanor under Title 7, Penal Code. If the county or municipality operates a pretrial victim offender mediation program, that entity would be authorized to retain 40 percent of the funds collected to be used exclusively for the maintenance of the pretrial victim-offender mediation program operated within the county or municipality. If a county or municipality complies with certain requirements, the county or municipality may retain as a collection fee 10 percent of an amount equal to the difference between the amount of funds collected and any amount to which the county or municipality would otherwise be entitled. The comptroller would be required to deposit the funds received from the county or municipality to the credit of the pretrial victim-offender mediation program account in the General Revenue Fund to help fund pretrial victim-offender mediation programs established under Subchapter A-1, Chapter 56, CCP. The legislature would be required to appropriate money from the account solely to the OAG for distribution to pretrial victim-offender mediation programs that apply for the money. Funds collected would be subject to audit by the comptroller.

Subchapter B, Chapter 102, and Subchapter B, Chapter 103 of the Government Code would be amended to add language to conform with provisions of Subchapter A-1, CCP.

Changes in the law would apply only to an offense committed on or after the effective date of the bill. The bill would take effect immediately if it were to received the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

The proposed legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

It is anticipated that administrative costs resulting from requirements placed on the Comptroller of Public Accounts, Office of the Attorney General, and Office of the State Auditor could be absorbed using existing resources. All other fiscal impact is reflected in the tables above.

Methodology

The Comptroller of Public Accounts used historical data from the *Annual Statistical Report for the Texas Judiciary* (for multiple years), adjusted for growth, indigency, implementation, and retention by local governments to estimate the fiscal impact from the new \$15 court cost. The court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect historical non-collection rates, and adjusted for an implementation lag. Estimates were based on felony and some misdemeanor convictions for which data were available. In general, misdemeanor property offense data were not sufficiently detailed to be included in the analysis.

It is unknown what amount the legislature might appropriate from the revenue deposited to the Pretrial Victim-Offender Mediation Program account to be distributed to the local programs, nor is it known how many programs would be established nor how much money may be requested from the local governments to help fund the local programs. However, for the purpose of this analysis, it is assumed that an amount equal to revenue gained would be appropriated and expended.

Local Government Impact

The table above reflects estimated revenue gain to local governments in the aggregate related to collecting the \$15 court cost if each eligible local entity were to establish a pretrial victim-offender mediation program. Impact would vary by county or municipality depending on the number of cases for which the \$15 fee would be imposed and whether the local government establishes a pretrial victim-offender mediation program, which would then entitle the entity to retain 40 percent of the fee and a collection fee, as opposed to retaining only a collection fee.

It is assumed that a county or municipality would establish a pretrial victim-offender mediation program only if, notwithstanding the \$500 program fee that could be charged to a defendant, the county or municipality has a sufficient budget and would collect sufficient applicable court fees to absorb the associated costs.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 18, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of pretrial victim-offender mediation programs.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2139, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund - GR Account, Pretrial Victim- Offender Mediation Program</i> 1	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund - GR Account, Pretrial Victim- Offender Mediation</i> 1	Probable Savings/(Cost) from <i>Local Units of Government</i>
2010	\$189,000	(\$189,000)	\$162,000
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2013	\$455,000	(\$455,000)	\$388,000
2014	\$455,000	(\$455,000)	\$388,000

Fiscal Analysis

The bill would add Subchapter A-1 to Chapter 56 of the Code of Criminal Procedure (CCP) to authorize a county or a municipality to establish a pretrial victim-offender mediation program for cases involving a first-time offender arrested and charged under Title 7 of the Penal Code (Offenses Against Property). Operational procedures that must be followed are provided in the bill, including requirements of the attorney representing the state and staff and other resources of pretrial services departments, community supervision and corrections departments, juvenile probation departments, and juvenile boards.

The lieutenant governor and the speaker of the house of representatives would be authorized to assign

oversight duties of the programs to appropriate legislative committees. A legislative committee or the governor would be authorized to request that the state auditor perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under the subchapter. A county or municipality that establishes a program would be required to notify the Office of the Attorney General when the program is implemented.

A pretrial victim-offender mediation program established under the added subchapter may collect from the defendant a reasonable program fee not to exceed \$500 and an alcohol or controlled substance testing, counseling, and treatment fee in an amount necessary to cover the costs. Fees must be based on the defendant's ability to pay and be used only for purposes specific to the program.

The bill would amend Subchapter A of Chapter 102, Code of Criminal Procedure, to require in addition to other costs on conviction imposed by the chapter, a \$15 court cost on conviction of a felony or misdemeanor under Title 7, Penal Code. If the county or municipality operates a pretrial victim offender mediation program, that entity would be authorized to retain 40 percent of the funds collected to be used exclusively for the maintenance of the pretrial victim-offender mediation program operated within the county or municipality. If a county or municipality complies with certain requirements, the county or municipality may retain as a collection fee 10 percent of an amount equal to the difference between the amount of funds collected and any amount to which the county or municipality would otherwise be entitled. The comptroller would be required to deposit the funds received from the county or municipality to the credit of the pretrial victim-offender mediation program account in the General Revenue Fund to help fund pretrial victim-offender mediation programs established under Subchapter A-1, Chapter 56, CCP. The legislature would be required to appropriate money from the account solely to the OAG for distribution to pretrial victim-offender mediation programs that apply for the money. Funds collected would be subject to audit by the comptroller.

Subchapter B, Chapter 102, and Subchapter B, Chapter 103 of the Government Code would be amended to add language to conform with provisions of Subchapter A-1, CCP.

Changes in the law would apply only to an offense committed on or after the effective date of the bill. The bill would take effect immediately if it were to received the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

The proposed legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

It is anticipated that administrative costs resulting from requirements placed on the Comptroller of Public Accounts, Office of the Attorney General, and Office of the State Auditor could be absorbed using existing resources. All other fiscal impact is reflected in the tables above.

Methodology

The Comptroller of Public Accounts used historical data from the *Annual Statistical Report for the Texas Judiciary* (for multiple years), adjusted for growth, indigency, implementation, and retention by local governments to estimate the fiscal impact from the new \$15 court cost. The court costs for criminal cases were multiplied by the total number of convictions, reduced to reflect historical non-collection rates, and adjusted for an implementation lag. Estimates were based on felony and some misdemeanor convictions for which data were available. In general, misdemeanor property offense data were not sufficiently detailed to be included in the analysis.

It is unknown what amount the legislature might appropriate from the revenue deposited to the Pretrial Victim-Offender Mediation Program account to be distributed to the local programs, nor is it known how many programs would be established nor how much money may be requested from the local governments to help fund the local programs. However, for the purpose of this analysis, it is assumed that an amount equal to revenue gained would be appropriated and expended.

Local Government Impact

The table above reflects estimated revenue gain to local governments in the aggregate related to collecting the \$15 court cost if each eligible local entity were to establish a pretrial victim-offender mediation program. Impact would vary by county or municipality depending on the number of cases for which the \$15 fee would be imposed and whether the local government establishes a pretrial victim-offender mediation program, which would then entitle the entity to retain 40 percent of the fee and a collection fee, as opposed to retaining only a collection fee.

It is assumed that a county or municipality would establish a pretrial victim-offender mediation program only if, notwithstanding the \$500 program fee that could be charged to a defendant, the county or municipality has a sufficient budget and would collect sufficient applicable court fees to absorb the associated costs.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 308 State Auditor's Office

LBB Staff: JOB, ESi, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of victim-offender mediation programs.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of victim-offender mediation programs.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of pretrial victim-offender mediation programs.), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 16, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2139 by McClendon (Relating to the establishment, operation, and funding of pretrial victim-offender mediation programs.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG